

MONTANA LEGISLATIVE HISTORY

Chapter 390 19 69

Bill H 504 S _____ Original bill & history C

H. Committee on Ways & Means

Hearing Date(s) Jan 31 ✓ C

Feb 05 ✓ C

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_____ C

Date Out Feb 05 ✓ C

S. Committee on Taxation

Hearing Date(s) Mar 01 ✓ C

Mar 03 ✓ C

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Mar 03 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

January 31, 1969

WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Goan at 9:00 a.m. Roll call showed sixteen present (absent Ulmer).

Rep. Marks, principal sponsor of H.B. 476 was asked to comment. This bill provides a more equitable apportionment of the liquor tax paid to counties and used for law enforcement. In many small counties the tavern owners go to the larger urban areas in other counties to purchase their liquor and that particular county receives credit. This bill would prevent this and give credit to the county from which the tavern owner is from. If enacted there would be no added cost for the State Liquor Control Board.

There being no further proponents and no opposition the floor was then open to questions. It was asked if Rep. Marks had any figures on the loss of liquor sales in his county. It was stated that he had contacted two tavern owners and they had purchased about \$8,000 worth of liquor in other counties during the year compared with \$1,500 purchased in their own county. It was also mentioned there was lack of stock in these smaller communities and this was a reason for the tavern owner going into the larger urban areas.

The next bill for consideration was H.B. 504. Rep. Fasbender, principal sponsor of this bill, commented at the present time it is not possible to tax corporations coming into the state for the purpose of doing business under a government contract. He then explained the different sections in this bill. Section 1 states what will be taxed, Section 2 the rate of which the tax will be assessed, Section 3 sets up the lien against the property, Section 4 deals with failure to pay, Section 5 with exemptions granted. He then read from Article 12, Section 2. It was stated people come in on these various missile sites and rent trailers from the government. There are several counties in the state involved.

Mr. Ed Shubat, Cascade County Commissioner and proponent of H.B. 204 spoke briefly, concurring with Rep. Fasbender. Last year Cascade County had some 200 trailers that Boeing was renting from the government. The county is obligated to provide fire and police protection for all these people. In 1966 Cascade County had 117 trailers valued at \$250,000. Taxes on the trailers would be approximately \$17,000. There was also \$56,000 in personal property, for an added tax of \$4,240. There are at least 15 counties involved in the missile site work.

There being no further proponents or opposition the committee then held a brief discussion. There was some question as to what was really meant under Section 1. Also mention was made of the legality of taxing such property, and Vern Miller of the State Board of Equalization stated this bill is almost exactly the same as a bill enacted in the state of Utah and had gone to the Supreme Court and declared valid.

H.B. 525 was considered next, and Chairman Goan stated this was a re-enactment of the 2-mill levy. A brief discussion was held.

Rep. Himsel moved H.B. 525 be reported out of committee DO PASS. Carried unanimously.

Rep. Fasbender recommended the committee delay action on H.B. 504.

Rep. Cranston moved H.B. out of committee as DO PASS. Carried unanimously.

H.B. 351 regarding the change of percentage classification of certain real property in the case of senior citizens. Rep. Watt stated he had been unable to find the S.B. which related closely to H. B. 351.

February 5, 1969

WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Goan at 9:15 a.m. Roll call showed fourteen members present. (Absent Ulmer, Shively and Cashmore)

Rep. Bardanoue, principal sponsor of H.R. 3 spoke at some length stating this bill merely requests that we support legislation in Congress of S.B. 2613 to amend the Internal Revenue code to prohibit persons who are not true farmers from using losses incurred in their farming operations as an offset to income from other sources. He is very concerned with persons engaged in farming or ranching merely to offset losses on their own income from other sources. These people can produce at a lower price and may also sell their property at an increased value and use the capital gain to increase their income. Several examples of situations pertaining to the above were cited. Some way should be found to prevent large corporations from coming into Montana and investing in farms and ranches and operating at a loss. The ordinary farmer cannot compete with the big corporations.

The committee then questioned Rep. Bardanoue on the different aspects of the ordinary farmer competing with the large corporations and the effect of integrated farming.

Vice Chairman Himsel was then asked to preside as the next bill to come before the committee was H.B. 392 of which Chairman Goan is principal sponsor.

Rep. Goan commented H.B. 392 merely provides exemption of the first \$10,000 yearly income of persons over the age of 70 from paying Montana state income tax. Usually a person's retirement income does not increase with the rising inflation and they are for the most part moving to other localities in their senior years. The people with a low retirement income could and do become a burden on the taxpayers by having to apply for welfare, etc. By having to pay Montana taxes on low retirement incomes, it makes it attractive for these people to seek other locations in which to live. It was noted again that only the first \$10,000 is exempt.

The committee then commented on the bill and a question was asked why the bill stipulates age 70 when the retirement age is 65. Rep. Goan stated if it were lowered to 65 there would be a considerable loss to the state in revenue. Rep. Aspegvig asked if it would not be better to make the deduction \$5,000 instead of \$10,000. Several committee members voiced their objection to the bill.

All witnesses were then excused and Chairman Goan again presided.

Rep. Aspegvig moved to amend the \$10,000 exemption be reduced to \$5,000 and H.B. 392 be reported out of committee DO PASS, as amended.

Rep. Romney made a substitute motion that H.B. 392 be reported out of committee DO NOT PASS. Carried unanimously.

Rep. Aspegvig moved the committee not consider H.R. 3 until a copy of S.B. 2613 could be studied. Motion carried unanimously.

Rep. Aspegvig made a motion that H.B. 504 be removed from the table. Carried unanimously.

The committee held a brief discussion on H.B. 504 and Rep. Himsel asked what this bill would do to the forest industry. Rep. Fasbender stated he had discussed this point with the State Board of Equalization and several attorneys and it was their intention to include timber in this bill.

Rep. Fasbender moved H.B. 504 be reported out of committee DO PASS with the following amendments.

Section 1, page 1, line 23, of the original bill, following the word "mineral" insert the following punctuation and word ", timber

There being no further business to come before the committee, Rep. Giesick moved for adjournment. Motion carried.



William S. Goan
Chairman

March 1, 1969

A meeting of the committee on Taxation was held on the above date. The chairman called the meeting to order. Roll call was taken and a quorum was present.

HOUSE BILL 504. Rep. Larry Fasbender stated this legislation would provide a privilege tax upon possession and use of tax-exempt property. He further explained there are corporations in Montana who do work for the government and rent property from the government and there is no way it can be taxed. This would be an attempt to correct this inequity in the tax basis. Questions were asked by members of the committee.

Appearing in opposition to House Bill 504, Chad Smith, representing the Montana Hospital Association, stated he wasn't opposed to this as a revenue bill, but did want an amendment included to clarify the property that would be exempt. He offered an amendment to members of the committee.

HOUSE BILL 541. Amendments to this bill as prepared by the State Board of Equalization were studied by the committee. Senator Turnage moved House Bill 541 be amended by omitting in their entirety all of the House amendments to the printed bill and inserting a different Section 4. Senator McGowan seconded. MOTION CARRIED with Rostad voting "no".

Senator Turnage moved HOUSE BILL 541 AS AMENDED BE CONCURRED IN. Senator Gilfeather seconded. MOTION CARRIED with Rostad and Broeder voting "no".

Senator Nees informed the committee members that House Bill 204 would be heard Sunday, March 2, with twenty minutes given to each, proponents and opponents.

House Bills 478 and 562 will also be heard, but since these were heard in joint committee meetings, the hearings will be brief.

There being no further business, the meeting was adjourned.



SENATOR NEES, Chairman

March 3, 1969

A meeting of the committee on Taxation met on the above date in Room 410. The chairman called the meeting to order. Roll call was taken and a quorum was present.

HOUSE BILL 566 was discussed by members of the committee. Senator Turnage moved that it be restored to its original form by striking the House amendments. Senator Gilfeather seconded. MOTION CARRIED.

Senator Turnage moved that HOUSE BILL 566 AS AMENDED BE CONCURRED IN. Senator Gilfeather seconded. MOTION CARRIED.

HOUSE BILL 564 was taken under advisement by the committee. Senator Turnage moved that it be amended. Senator Gilfeather seconded. MOTION CARRIED. Senator Turnage moved that HOUSE BILL 564 AS AMENDED BE CONCURRED IN. Senator Gilfeather seconded. MOTION CARRIED.

Senator Reber moved that HOUSE BILL 559 be restored to its original form. Senator McGowan seconded. MOTION CARRIED. Senator Reber moved that HOUSE BILL 559 AS AMENDED BE CONCURRED IN. Senator Broeder seconded. MOTION CARRIED.

HOUSE BILL 561. Senator Gilfeather moved that we reconsider our action of February 28. Senator Reber seconded. MOTION CARRIED. Senator Gilfeather moved we revise the figure to .65 in House Bill 561. Senator Reber seconded. MOTION CARRIED with Lyon, Rostad, Mathers and Broeder voting "no". Senator Reber moved that HOUSE BILL 561 AS AMENDED BE CONCURRED IN. Senator McGowan seconded. MOTION CARRIED.

Senator Turnage moved that HOUSE BILL 565 BE AMENDED. Senator Reber seconded. MOTION CARRIED. Senator Gilfeather moved HOUSE BILL 565 AS AMENDED BE CONCURRED IN. Senator Turnage seconded. MOTION CARRIED.

Senator Reber moved HOUSE BILL 562 BE CONCURRED IN. Senator Turnage seconded. MOTION CARRIED.

HOUSE BILL 478. Senator Turnage moved HOUSE BILL 478 BE CONCURRED IN. Senator Lyon seconded. MOTION CARRIED.

Senator McGowan moved that HOUSE BILL 563 BE AMENDED. Senator Reber seconded and MOTION CARRIED. Senator Reber moved that HOUSE BILL 563 AS AMENDED BE CONCURRED IN. Senator McGowan seconded and MOTION CARRIED.

Senator Manning moved that HOUSE BILL 436 BE CONCURRED IN. Senator McGowan seconded. MOTION CARRIED.

Senator Gilfeather moved that HOUSE BILL 504 BE CONCURRED IN. Senator Turnage seconded and MOTION CARRIED.

state in the same manner as judgment liens are enforced. No action shall be maintained to enjoin the collection of all or any part of the license tax. When the amount due is paid in full before the entry of foreclosure decree, the state treasurer shall release the lien by filing in the office of the county clerk where the lien was filed, a written release. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of the lien a part of the distributor's property to enable the distributor to mortgage, sell or otherwise dispose of it in order to procure funds to pay taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to the lien to insure the payment of all the unpaid taxes, penalty and interest.

Penalties.

Section 15. **Penalties.** Any distributor or other person, who fails, neglects, or refuses to make and file the statements required by this act in the manner or within the time provided, or who shall be delinquent in the payment of any license tax imposed by this act, or who shall make any false statement with reference to his business, or who shall make any false statement on any claim for refund or who violates any provision of the act, shall, in addition to any other penalties imposed, be deemed guilty of a misdemeanor and upon conviction shall be fined in any amount not exceeding one thousand dollars (\$1,000) or imprisonment in the county jail for not to exceed six (6) months, or shall be punished by the imposition of both such fine and imprisonment.

Statute of limitations.

Section 16. **Statute of limitations.** Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed within three (3) years from the due date of the return or the date of filing the return, whichever period expires later.

Rules and regulations.

Section 17. **Rules and regulations to be established by state board.** The state board of equalization shall have the power, and it shall be its duty to adopt, publish and enforce the rules and regulations consistent with and necessary for carrying out the provisions of this act.

Severability clause.

Section 18. **Severability.** If any section, subsection, sentence or clause in the act shall, for any reason, be held

unconstitutional or void, such decision shall not affect the validity or meaning of any other portion of this act.

Section 19. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Section 20. Sections 84-1801, 84-1801.1, 84-1802, 84-1802.1, 84-1803, 84-1803.1, 84-1804, 84-1805, 84-1805.1, 84-1806, 84-1807, 84-1808, 84-1809, 84-1810, 84-1811, 84-1813, 84-1814, 84-1818, 84-1818.1, 84-1819, 84-1820, 84-1821, 84-1822, 84-1823, 84-1828, and 84-1829, R.C.M. 1947, are repealed. **Same.**

Approved: March 17, 1969.

CHAPTER NO. 370

An Act to Provide a Privilege Tax Upon Possession and Use of Tax-Exempt Property; Providing Exceptions Thereto; Fixing the Rate of Such Tax and Credit Against Tax; Providing for Assessment, Collection and Distribution of Said Taxes; Providing Penalties for Failure to Pay the Tax and Preserving Constitutional Exemption, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Privilege tax upon possession and use of tax-exempt property—exceptions.** From and after the effective date of this act there is imposed and there shall be collected a tax upon the possession or other beneficial use enjoyed by any private individual, association, or corporation of any property, real or personal, which for any reason is exempt from taxation. No tax shall be imposed upon the possession or other beneficial use of public lands occupied under the terms of mineral, timber or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit or easement relates.

Privilege tax upon possession and use of tax-exempt property—exceptions.

Section 2. **Rate of tax same as ad valorem property tax—credit against tax on use of federally owned property.** The tax imposed upon such possession or other bene-

Rate of tax—credit.

ficial use of tax-exempt property shall be in the same amount and to the same extent as the ad valorem property tax would be if the possessor or user were the owner thereof; provided that there shall be credited against the tax so imposed upon the beneficial use of property owned by the federal government the amount of payments which are made in lieu of taxes.

Assessment—
collection and
distribution—taxes
not to be a lien.

Section 3. **Assessment—collection and distribution—taxes shall not become a lien against property.** The tax imposed hereunder shall be assessed to such possessors or users of the tax-exempt property upon the same forms, and shall be collected and distributed at the same time and in the same manner as taxes assessed to owners, possessors, or other claimants of property which is subject to ad valorem taxation, except that such taxes shall not become a lien against the property, and no such tax-exempt property may be attached, encumbered, sold or otherwise affected for the collection of the tax imposed hereunder.

Failure to pay
tax—remedies of
county.

Section 4. **Failure to pay tax—remedies of county.** A tax due and unpaid under this act shall constitute a debt due the county for and on behalf of the various taxing units concerned in the tax. If the tax imposed by this act or any portion thereof is not paid at the time the same becomes delinquent the county auditor may issue a warrant in the name of the county directed to the clerk of the district court in his county and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest and other costs for which the warrant is issued and the date when such warrant is filed, and thereupon the warrant so docketed shall have the force and effect of a judgment duly rendered by a district court and docketed in the office of the clerk thereof, and the county shall have the same remedies against the possessor user as any other judgment docket.

Exemptions.

Section 5. **Exemptions granted in the constitution of the state of Montana.** Nothing contained herein shall be construed as limiting or repealing the exemptions granted in article XII, section 2 of the constitution of the state of Montana.

Section 6. This act shall be in full force and effect from and after its passage. Effective immediately.

Approved: March 17, 1969.

CHAPTER NO. 371

An Act to Appropriate Thirty-Five Thousand Dollars (\$35,000) for Repair of the Governors' Old Mansion and to Lease Said Mansion to the City of Helena.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the office of the state controller from the federal and private revenue fund capitol building account to be used to repair the governors' old mansion thirty-five thousand dollars (\$35,000). The state controller is hereby authorized to complete the needed repairs without delay.

Appropriation for
repair of
governors' old
mansion—lease to
city of Helena.

Section 2. The state board of examiners is requested and authorized to negotiate and enter into a lease arrangement with the city of Helena for the property known as the governors' old mansion; such lease agreement to provide that restoration procedures from time to time by the lessee be encouraged and permitted by the board of examiners and further provide that maintenance and repair of the property under the lease be the responsibility of the lessee.

Approved March 17, 1969.

CHAPTER NO. 372

An Act Appropriating \$2,600,000 From the Earmarked Revenue Fund to Montana State University for the Construction of Physical Education, Athletic, and Recreation Facilities; Providing That All Gifts, Grants, Fees, and Earnings Available for This Facility Shall Be Deposited in the Earmarked Revenue Fund Including a Special Student Fee of Not More Than \$6.50 Per Academic Quarter; and Providing That the Construction Shall Begin Only Upon Approval of the Board of Edu-